

105TH CONGRESS  
2D SESSION

# S. 1719

To direct the Secretary of Agriculture and the Secretary of the Interior  
to exchange land and other assets with Big Sky Lumber Co.

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## IN THE SENATE OF THE UNITED STATES

MARCH 6, 1998

Mr. BAUCUS (for himself and Mr. BURNS) introduced the following bill; which  
was read twice and referred to the Committee on Energy and Natural  
Resources

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## A BILL

To direct the Secretary of Agriculture and the Secretary  
of the Interior to exchange land and other assets with  
Big Sky Lumber Co.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Gallatin Land Consoli-  
5       dation Act of 1998”.

6       **SEC. 2. FINDINGS.**

7       Congress finds that—

8               (1) the land north of Yellowstone National Park  
9       possesses outstanding natural characteristics and

wildlife habitats that make the land a valuable addition to the National Forest System;

(2) it is in the interest of the United States to establish a logical and effective ownership pattern for the Gallatin National Forest, reducing long-term costs for taxpayers and increasing and improving public access to the forest; and

(3) it is in the interest of the United States for the Secretary of Agriculture to enter into an Option Agreement for the acquisition of land owned by Big Sky Lumber Co. to accomplish the purposes of this Act.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) BLM LAND.—The term “BLM land” means approximately 3,000 acres of Bureau of Land Management land (including all appurtenances to the land) that is proposed to be acquired by BSL, as depicted in Exhibit B to the Option Agreement.

(2) BSL.—The term “BSL” means Big Sky Lumber Co., an Oregon joint venture, and its successors and assigns, and any other entities having a property interest in the BSL land.

(3) BSL LAND.—The term “BSL land” means approximately 55,000 acres of land (including all ap-

1       purtenances to the land) owned by BSL that is pro-  
 2       posed to be acquired by the Secretary of Agriculture,  
 3       as depicted in Exhibit A to the Option Agreement.

4           (4) FOREST SYSTEM LAND.—The term “Forest  
 5       System land” means approximately 28,000 acres of  
 6       land (including all appurtenances to the land) owned  
 7       by the United States in the Gallatin National For-  
 8       est, Flathead National Forest, Deer Lodge National  
 9       Forest, Lolo National Forest, and Lewis and Clark  
 10      National Forest that is proposed to be acquired by  
 11      BSL, as depicted in Exhibit B to the Option Agree-  
 12      ment.

13          (5) OPTION AGREEMENT.—The term “Option  
 14      Agreement” means the document signed by BSL,  
 15      dated \_\_\_\_\_ and entitled “Option Agree-  
 16      ment for the Acquisition of Big Sky Lumber Co.  
 17      Lands Pursuant to the Gallatin Range Consolidation  
 18      and Protection Act of 1993”, and the exhibits (in-  
 19      cluding an exchange agreement) and maps attached  
 20      to the agreement.

21   **SEC. 4. GALLATIN LAND CONSOLIDATION COMPLETION.**

22          (a) IN GENERAL.—Notwithstanding any other provi-  
 23      sion of law, if BSL offers title to the BSL land, including  
 24      mineral interests, that is acceptable to the United States  
 25      and meets the requirements of subsection (e)—

1           (1) the Secretary of Agriculture shall accept a  
2           warranty deed to the BSL land and a quit claim  
3           deed to the mineral interests in the BSL land;

4           (2) the Secretary of Agriculture shall convey to  
5           BSL, subject to valid existing rights and to such  
6           other terms, conditions, reservations, and exceptions  
7           as may be agreed on by the Secretary of Agriculture  
8           and BSL fee title to the Forest System land;

9           (3) the Secretary shall grant to BSL timber  
10          harvest rights to approximately 20,000,000 board  
11          feet of timber in accordance with subsection (c) and  
12          as described in Exhibit C to the Option Agreement;

13          (4)(A) subject to the availability of funds, the  
14          Secretary of Agriculture shall purchase the portion  
15          of the BSL land in the Taylor Fork area depicted  
16          on Exhibit D to the Option Agreement at a purchase  
17          price of not more than \$6,500,000; and

18          (B) to extent that funds are not available, the  
19          Secretary of Agriculture shall acquire the remaining  
20          Taylor Fork sections through an exchange of assets;  
21          and

22          (5) the Secretary of the Interior shall convey to  
23          BSL, by patent or otherwise, subject to valid exist-  
24          ing rights and to such other terms, conditions, res-  
25          ervations, and exceptions as may be agreed to by the

1 Secretary of the Interior and BSL, fee title to the  
2 BLM land.

3 (b) VALUATION.—The property and other assets ex-  
4 changed by BSL and the United States under subsection  
5 (a) shall be approximately equal in value, as determined  
6 by the Secretary of Agriculture.

7 (c) TIMBER HARVEST RIGHTS.—

8 (1) IN GENERAL.—Not later than December 31  
9 of the second full calendar year that begins after the  
10 date of enactment of this Act, the Secretary shall  
11 prepare, grant to BSL, and commence administra-  
12 tion of the timber harvest rights identified in Ex-  
13 hibit C to the Option Agreement.

14 (2) GRANTS.—

15 (A) IN GENERAL.—The Secretary shall  
16 grant timber harvest rights to BSL not earlier  
17 than the date that is 45 days after the date on  
18 which the Secretary issues a decision notice to  
19 grant the timber harvest rights, or, if such a  
20 decision notice is appealed, after the date of  
21 final resolution of the appeal.

22 (B) LIMITATION.—The Secretary may not  
23 grant timber harvest rights that are the subject  
24 of administrative appeal or litigation.

1           (3) ADMINISTRATION.—After timber harvest  
2 rights are granted to BSL, the decision notice for  
3 those rights and the administration of those rights  
4 in accordance with the decision notice shall not be  
5 subject to administrative appeal or judicial review.

6           (4) SCHEDULES.—The Secretary and BSL  
7 shall mutually develop and agree on schedules for  
8 the harvest of timber the harvest rights to which are  
9 granted to BSL in the exchange.

10          (5) TIMBER SALE PROGRAM.—The timber har-  
11 vest rights granted under this Act—

12               (A) shall constitute the timber sale pro-  
13 gram for the Gallatin National Forest for the  
14 period beginning on the date of enactment of  
15 this Act and ending on December 31 of the sec-  
16 ond full calendar year that begins after that  
17 date; and

18               (B) shall be funded by the Secretary annu-  
19 ally at levels that are commensurate with the  
20 preparation and administration involved in the  
21 program.

22          (6) SUBSTITUTION.—If circumstances, such as  
23 natural catastrophe, administrative appeals or litiga-  
24 tion, regulatory or legal limitations, or environ-  
25 mental or financial circumstances, prevent the Sec-

1       retary from granting the timber harvest rights iden-  
2       tified in Exhibit C to the Option Agreement, the  
3       Secretary shall replace the value of the diminished  
4       timber harvest rights by substituting equivalent tim-  
5       ber harvest rights volume from the same market  
6       area.

7               (7) OPEN MARKET.—All timber harvest rights  
8       granted to BSL in the exchange under subsection  
9       (a) shall be offered for sale by BSL through the  
10      competitive bid process.

11             (8) SMALL BUSINESS.—All timber harvest  
12      rights granted to BSL in the exchange shall be sub-  
13      ject to compliance by BSL with Forest Service small  
14      business program procedures in effect as of the date  
15      of enactment of this Act, including contractual pro-  
16      visions for payment schedules, harvest schedules,  
17      and bonds and including the right of the highest bid-  
18      der among qualified small businesses that submit  
19      minimum bids to be awarded a timber contract.

20             (9) COMPLIANCE WITH OPTION AGREEMENT.—  
21      The Secretary and BSL shall comply with the terms  
22      and conditions of the Option Agreement, including  
23      terms and conditions with respect to timber harvest  
24      rights included in the exchange.

1 (d) RIGHTS-OF-WAY.—As part of the exchange under  
 2 subsection (a)—

3 (1) the Secretary of Agriculture, under the au-  
 4 thority of the Federal Land Policy and Management  
 5 Act of 1976 (43 U.S.C. 1701 et seq.), shall convey  
 6 to BSL such easements in or other rights-of-way  
 7 over Forest System land as may be agreed to by the  
 8 Secretary of Agriculture and BSL; and

9 (2) BSL shall convey to the United States such  
 10 easements in or other rights-of-way over land owned  
 11 by BSL as may be agreed to by the Secretary of Ag-  
 12 riculture and BSL.

13 (e) QUALITY OF TITLE.—

14 (1) DETERMINATION.—The Secretary of Agri-  
 15 culture shall review the title for the BSL land de-  
 16 scribed in subsection (a) and, within 45 days after  
 17 receipt of all applicable title documents from BSL,  
 18 determine whether—

19 (A) the applicable title standards for Fed-  
 20 eral land acquisition have been satisfied or the  
 21 quality of the title is otherwise acceptable to the  
 22 Secretary of Agriculture;

23 (B) all draft conveyances and closing docu-  
 24 ments have been received and approved;



1 (C) a current title commitment verifying  
 2 compliance with applicable title standards has  
 3 been issued to the Secretary; and

4 (D) the title includes both the surface and  
 5 subsurface estates without reservation or excep-  
 6 tion (except by the United States or the State  
 7 of Montana, by patent or as otherwise agreed  
 8 to by the Secretary and BSL), including—

9 (i) minerals, mineral rights, and min-  
 10 eral interests (including severed oil and gas  
 11 surface rights), subject to and excepting  
 12 other outstanding or reserved oil and gas  
 13 rights;

14 (ii) timber, timber rights, and timber  
 15 interests, except those reserved subject to  
 16 section 251.14 of title 36, Code of Federal  
 17 Regulations, by BSL and agreed to by the  
 18 Secretary;

19 (iii) water, water rights, ditch, and  
 20 ditch rights; and

21 (iv) any other interest in the property.

22 (2) CONVEYANCE OF TITLE.—

23 (A) IN GENERAL.—If the quality of title  
 24 does not meet Federal standards or is otherwise  
 25 determined to be unacceptable to the Secretary

1 of Agriculture, the Secretary shall advise BSL  
 2 regarding corrective actions necessary to make  
 3 an affirmative determination under paragraph  
 4 (1).

5 (B) TITLE TO SUBSURFACE ESTATE.—

6 Title to the subsurface estate shall be conveyed  
 7 by BSL to the Secretary of Agriculture in the  
 8 same form and content as that estate is re-  
 9 ceived by BSL from Burlington Resources Oil  
 10 & Gas Company Inc. and Glacier Park Com-  
 11 pany.

12 (f) TIMING OF IMPLEMENTATION.—

13 (1) LAND-FOR-LAND EXCHANGE.—The Sec-  
 14 retary of Agriculture shall accept the conveyance of  
 15 land described in subsection (a) not later than 45  
 16 days after the Secretary of Agriculture has made an  
 17 affirmative determination of quality of title.

18 (2) LAND-FOR-TIMBER EXCHANGE.—The Sec-  
 19 retary shall make the timber harvest rights de-  
 20 scribed in subsection (a)(3) available not later than  
 21 December 31 of the second full calendar year that  
 22 begins after the date of enactment of this Act.

23 (3) PURCHASE.—The Secretary of Agriculture  
 24 shall complete the purchase of BSL land under sub-  
 25 section (a)(4) not later than 30 days after the date

1 on which appropriated funds are made available and  
2 an affirmative determination of quality of title is  
3 made with respect to the BSL land.

4 **SEC. 5. GENERAL PROVISIONS.**

5 (a) MINOR CORRECTIONS.—

6 (1) IN GENERAL.—The Option Agreement shall  
7 be subject to such minor corrections as may be  
8 agreed to by the Secretary of Agriculture and BSL.

9 (2) NOTIFICATION.—The Secretary shall notify  
10 the Committee on Energy and Natural Resources of  
11 the Senate, the Committee on Resources of the  
12 House of Representatives, and each member of the  
13 Montana congressional delegation of any changes  
14 made pursuant to this subsection.

15 (b) PUBLIC AVAILABILITY.—The Option Agree-  
16 ment—

17 (1) shall be on file and available for public in-  
18 spection in the office of the Supervisor of the Gal-  
19 latin National Forest; and

20 (2) shall be filed with the county clerk of each  
21 of Gallatin County, Park County, Madison County,  
22 Granite County, Broadwater County, Meagher Coun-  
23 ty, Flathead County, and Missoula County, Mon-  
24 tana.

1       (c) STATUS OF LAND.—All land conveyed to the  
2 United States under this Act shall be added to and admin-  
3 istered as part of the Gallatin National Forest and  
4 Deerlodge National Forest, as appropriate, in accordance  
5 with the Act of March 1, 1911 (commonly known as the  
6 “Weeks Act”) (36 Stat. 961, chapter 186), and other laws  
7 (including regulations) pertaining to the National Forest  
8 System.

9       (d) MANAGEMENT.—

10           (1) PUBLIC PROCESS.—Not later than 30 days  
11 after the date of completion of the land-for-land ex-  
12 change under section 4(f)(1), the Secretary shall ini-  
13 tiate a public process to amend the Gallatin Na-  
14 tional Forest Plan and the Deerlodge National For-  
15 est Plan to integrate the acquired BSL land into the  
16 plans.

17           (2) PROCESS TIME.—The amendment process  
18 under paragraph (1) shall be completed not later  
19 than 360 days after the date on which the amend-  
20 ment process is initiated.

21           (3) LIMITATION.—An amended management  
22 plan shall not permit surface occupancy on the BSL  
23 land for access to reserved or outstanding oil and  
24 gas rights or for exploration or development of oil  
25 and gas.

1           (4) INTERIM MANAGEMENT.—Pending comple-  
2           tion of the forest plan amendment process under  
3           paragraph (1), the Secretary shall—

4                   (A) manage the acquired BSL land under  
5                   the same standards, guidelines, and manage-  
6                   ment directions as adjacent land managed by  
7                   the Forest Service; and

8                   (B) maintain all existing public access to  
9                   the acquired BSL land.

10       (e) RESTORATION.—

11           (1) IN GENERAL.—After acquiring the BSL  
12           land, the Secretary shall implement a restoration  
13           program including reforestation and watershed en-  
14           hancements to bring the BSL land and surrounding  
15           national forest land into compliance with Forest  
16           Service standards and guidelines.

17           (2) STATE AND LOCAL CONSERVATION  
18           CORPS.—In implementing the restoration program,  
19           the Secretary shall, when practicable, use partner-  
20           ships with State and local conservation corps, includ-  
21           ing the Montana Conservation Corps, under the  
22           Public Lands Corps Act of 1993 (16 U.S.C. 1721 et  
23           seq.).

1       (f) IMPLEMENTATION.—The Secretary of Agriculture  
2 shall ensure that sufficient funds are made available to  
3 the Gallatin National Forest to carry out this Act.

4 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

5       There are authorized to be appropriated such sums  
6 as are necessary to carry out this Act.

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